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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	
)	Civil No. CV A02-0054 JKS
Plaintiff,)	
)	
v.)	
)	UNITED STATES' MOTION TO
THOMAS R. MUNGLE and MARLENE C.)	CORRECT A CLERICAL ERROR IN THE
MUNGLE ; DOWN RIGGER CORP.;)	COURT'S ORDER OF JUNE 11, 2003 AND
SIERRA VIEW HOLDING, INC.;)	MOTION FOR ENTRY OF JUDGMENT
ROBERT and JOAN DIDIER;)	AGAINST THOMAS R. MUNGLE AND
INVERSIONES QUIZARRA, S.A.;)	MARLENE C. MUNGLE
DAVID ALLISON; and)	
HOWARD JAEGER,)	
)	
Defendants.)	
)	
)	
)	

The United States of America, by the undersigned counsel, hereby files: (1) Motion to
Correct Clerical Error in the Court's Order of June 11, 2003 and (2) Motion for Entry of
Judgment Against Thomas R. Mungle and Marlene C. Mungle.

FACTS

On December 24, 2002, the United States filed a Motion for Summary Judgment requesting that tax assessments against Thomas R. Mungle and Marlene C. Mungle for the 1982 tax year and the 1985 through 1994 tax years be reduced to judgment. The United States requested that the tax liabilities for the 1982 tax year and the 1985 through 1994 tax years be reduced to judgment in the amount of \$961,084.67 plus interest and statutory additions from January 15, 2002. Memorandum in Support of United States' Motion for Summary Judgment (Docket Entry No. 44), p. 3. On June 11, 2003, the Court ordered that the tax assessments for the 1988 through 1994 tax years be reduced to judgment. The Court found that the amount "due and owing for the years 1988-1994 is \$151,330.40 as of January 15, 2002, plus interest and statutory additions thereafter less any applicable credits."¹ Court's Order dated June 11, 2003 (Docket Entry No. 64), p. 5. On January 15, 2002, the total amount due and owing for the 1988 through 1994 tax years was actually \$327,541.93. Exhibits A through G attached to the Declaration of Internal Revenue Service Technical Advisor Jamie Bent.²

In its Order dated June 11, 2003, the Court also denied the United States' request to reduce to judgment tax assessments for the 1982, 1985, 1986 and 1987 tax years. On March 24,

¹There is no explanation in the Court's Order of how the Court determined that the taxpayers' outstanding tax liabilities for the 1988 through 1994 tax years was \$151,330.40 as of January 15, 2002.

²The United States submits the Declaration of Internal Revenue Service Technical Advisor Jamie Bent and the attached exhibits to provide the Court with evidence of total amount actually owed by the taxpayers, on January 15, 2002, for the 1988 through 1994 tax years. The United States did not provide a year by year breakdown of how much was owed for each tax year in its Motion for Summary Judgment, which may have lead to the clerical error in the Court's Order of June 11, 2003.

2004, the Court approved a Stipulation to Reduce Assessments to Judgment for the 1982, 1985, 1986 and 1987 tax years in the amount of \$427,158.15 as of January 5, 2004.

ANALYSIS

1. **The United States requests that the Court correct the finding in its Order, dated June 11, 2003, regarding the amount owed by the taxpayers for the 1988 through 1994 tax years through January 15, 2002.**

Federal Rule of Civil Procedure 60(a) provides that “[c]lerical mistakes in . . . orders or other parts of the record and errors therein arising from oversight or omission may be corrected . . . on the motion of any party and after such notice, if any, as the court orders.” On June 11, 2003, the Court found that the “amount due and owing for the years 1988-1994 is \$151,330.40 as of January 15, 2002, plus interest and statutory additions accrued less any applicable credits.” Court’s Order dated June 11, 2003 (Docket Entry No. 64), p. 5. For the 1988 through 1994 tax years, the actual amount due and owing, as of January 15, 2002, was \$327,541.93. Exhibits A through G attached to the Declaration of Internal Revenue Service Technical Advisor Jamie Bent.

It is clear from the Court’s Order that the Court intended to grant the United States judgment for the full amount due and owing, through January 15, 2002, for the 1988 through 1994 tax years. In its Motion for Summary Judgment, the United States only provided a total, through January 15, 2002, for all of the tax years at issue (1982, and 1985 through 1994). The Court did not grant the United States’ Motion for Summary Judgment with regard to the 1982, 1985, 1986 and 1987 tax years. As a result, it appears that the Court made a mathematical error in calculating the amount due and owing, through January 15, 2002, for the 1988 through 1994 tax years. The United States requests that the Court correct the clerical error in its Order, dated

June 11, 2003, reducing to judgment the tax assessments against the taxpayers for the 1988 through 1994 tax years. Specifically, the United States requests that the Court find that the amount due and owing for the 1988 through 1994 tax years, through January 15, 2002, was \$327,541.93.

2. The United States requests that the Court enter judgment against Thomas R. Mungle and Marlene C. Mungle for all of the tax years at issue.

On June 11, 2003, the Court reduced to judgment tax assessments against the Thomas R. Mungle and Marlene C. Mungle for the 1988 through 1994 tax years. In addition, on March 24, 2004, the Court approved a Stipulation to Reduce Assessments to Judgment for the 1982, 1985, 1986 and 1987. To date, the Court has not entered judgment against Thomas R. Mungle and Marlene C. Mungle. The United States respectfully requests that the Court enter judgment against Thomas R. Mungle and Marlene C. Mungle. For the 1988 through 1994 tax years, the United States requests that the Court enter judgment in the amount of \$327,541.93 plus interest and statutory additions accruing from January 15, 2002 less any applicable credits. For the 1982 tax year and the 1985 through 1987 tax years, the United States requests that the Court enter judgment in the amount of \$427,158.15 plus interest and statutory additions accruing from January 5, 2004 less any applicable credits. See Stipulation to Reduce Assessments to Judgment approved by the Court on March 24, 2004 (Docket Entry No. 72). The United States has submitted a proposed judgment reflecting the proper amounts due.

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Respectfully submitted this 30th day of November, 2006.

Respectfully submitted,

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United States Attorney

/s/ Goud P. Maragani
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CERTIFICATE OF SERVICE

I declare under penalty of perjury that a true and correct copy of the UNITED STATES' MOTION TO CORRECT A CLERICAL ERROR IN THE COURT'S ORDER OF JUNE 11, 2003 AND MOTION FOR ENTRY OF JUDGMENT AGAINST THOMAS R. MUNGLE AND MARLENE C. MUNGLE was sent to the following parties on November 30, 2006:

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